APPENDIX.

1. Pertinent Provisions of the California Constitution and Statutes Relating to the Assessment of Local Ad Valorem Taxes.

ARTICLE XIII, SECTION 2, CALIFORNIA CONSTITUTION.

2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

ARTICLE XIII, SECTION 10, CALIFORNIA CONSTITUTION.

10. All property, except as otherwise in this Constitution provided, shall be assessed in the county, city, city and county, town or township, or district in which it is situated, in the manner prescribed by law.

DIV. 1, PART 2, CHAP. 3, ART. 6 OF THE CALIFORNIA REVENUE AND TAXATION CODE ENTITLED "ASSESSMENT ROLL."

Section 601. The assessor shall prepare an assessment roll, as directed by the board, in which shall be listed all property within the county which it is the assessor's duty to assess.

Section 602. This local roll shall show:

(a) The name and address, if known, of the assessee.

(b) Land by legal description.

(c) A description of possessory interests sufficient to identify them.

(d) Personal property. A failure to enumerate personal property in detail does not invalidate the assessment.

(e) The cash value of real estate, except improvements.

(f) The cash value of improvements on the real estate.

(g) The cash value of improvements assessed to any person other than the owner of the land.

(h) The cash value of possessory interests.

(i) The cash value of personal property, other than intangibles.

(j) The revenue district in which each piece of property assessed is situated.

(k) The total taxable value of all property assessed, exclusive of intangibles.

(l) The actual value of solvent credits, after legal deductions for debts.

(m) Any other things required by the board.

Section 607. Land and improvements thereon shall be separately assessed.

2. Pertinent Provisions of the California Constitution and Statutes Relating to Powers and Duties of a County Board of Equalization.

ARTICLE XIII, SECTION 9, CALIFORNIA CONSTITUTION.

. . . The boards of supervisors of the several counties of the State shall constitute boards of equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; provided such state and county boards of equalization are hereby authorized and empowered, under such rules of notice as the county boards may prescribe as to county assessments, and under such rules of notice as the state board may prescribe as to the action of the state board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll; . . .

DIV. 1, PART 3, CHAP. 1 OF CALIFORNIA REVENUE AND TAXATION CODE ENTITLED "EQUALIZATION BY COUNTY BOARD OF EQUALIZATION."

Section 1611. After five days succeeding the time when notice of the date when the matter will be investigated is sent by the clerk of the county board to all persons interested, the county board may direct the assessor to:

(a) Assess any taxable property other than State assessed property that has escaped assessment.

(b) Change the amount, number, quantity, or description of property on the local roll.

(c) Make and enter new assessments, at the same time canceling previous entries, when any assessment made by him is deemed by the county board so incomplete as to render doubtful the collection of the tax.

3. Pertinent Provisions of California Statutes Relating to Payment of Local Taxes Under Protest and Terms of Judgment in Tax Recovery Actions.

DIV. 1, PART 9, CHAP. 5, ART. 2 OF CALIFORNIA REVENUE AND TAXATION CODE ENTITLED "PAYMENT UNDER PROTEST AND SUIT TO RECOVER."

Section 5136. After taxes are payable, any property owner may pay the taxes on his property under protest. A payment under protest is not a voluntary payment.

Section 5137. The protest shall be in writing, specifying:

(a) Whether the whole assessment is claimed to be void or, if only a part, what portion.

(b) The grounds on which the claim is founded.

Section 5137.5. The written protest shall be numbered by the tax collector and filed in his office and the fact of

such protest and the number thereof shall be marked on the roll or delinquent roll, opposite the tax to which the payment relates.

Section 5138. Within six months after the payment, an action may be brought against a county or a city in the superior court to recover the taxes paid under protest.

If all or any portion of the taxes paid under protest and sought to be recovered were collected by officers of the county for a city, an action must be brought against the city for the recovery of such taxes and judgment must be sought against the city. Where actions are brought against both a county and a city such actions may be joined in one complaint.

Any city for which county officers collect taxes may provide for the defense by counsel for the county of actions brought against the city under this article, in which event it shall be the duty of such counsel to defend such actions, or the city may provide that such actions shall be defended by its own counsel.

Section 5139. The action may be brought only:

(a) As to portion of the assessment claimed to be void.

(b) On the grounds specified in the protest.

(c) By the owner, his guardian, executor, or administrator.

Section 5140. On payment of a judgment against the county in an action under this article, any part of the tax recovered which was paid by the county treasurer to the State Treasurer is an amount due the county from the State and shall be deducted in the next settlement had by the county with the Controller.

Section 5141. If the court finds that the assessment complained of is void in whole or in part, it shall render judgment for the plaintiff for the amount of the taxes paid on so much of the assessment as is found to be void. In such event but only where taxes are paid after the effective date of this act, the plaintiff is entitled to interest on the taxes for which recovery is allowed at the rate of 5 per centum per annum from the date of payment under protest to the date of entry of judgment, and such accrued interest shall be included in the judgment. The taxes paid on so much of the assessment as is not found to be void shall constitute valid taxes which, if paid after delinquency, shall carry penalties, interest and costs.

Section 5142. Where the taxes sought to be recovered have been paid after delinquency, the amount of penalties, interest or costs recoverable in actions brought under this article shall be computed only on the taxes recovered.

Section 5143. As used in this article, "tax" or "taxes" includes penalties, interests and costs.

4. Pertinent Provisions of California Statutes Relating to Reassessment Proceedings.

DIV. 1, PART 9, ART. 3 OF CALIFORNIA REVENUE AND TAXATION CODE ENTITLED "ENFORCEMENT OF TAXATION AFTER ERRONEOUS PROCEEDINGS."

Section 4946. All or any portion of any uncollected tax, penalty, or costs, heretofore or hereafter levied, may on satisfactory proof submitted by the tax collector be canceled by the auditor on order of the board of supervisors with the written consent of the district attorney upon a showing that the collection of the delinquent tax cannot be enforced because of any errors in description, assess-

ment, equalization, levy, or any other proceeding. If all or any portion of the property was taxable for the year or years for which the cancellation is made, the clerk shall send a notice to the last assessee of the property respecting the cancellation. A similar notice shall be sent to the last assessee, except that the grounds of cancellation need not be stated, in the event that any tax, penalty or costs, or any portion thereof, is ordered canceled or held void or ordered refunded by a final judgment of a court of competent jurisdiction.

Section 4947. The notice shall state:

(a) The grounds of cancellation;

(b) That collection of the tax for the year for which cancellation was made will be enforced unless cause is shown why such action should not be taken;

(c) That the assessee may demand a hearing by the board of supervisors within ten days after the notice is sent. If demanded, the board of supervisors shall set a time for the hearing and its decision is final as to whether or not collection of the tax should be enforced. If any portion of the property was taxable for the year for which cancellation is made, the board of supervisors shall order collection of the corrected tax for the year for which cancellation was made.

Section 4948. If the board of supervisors orders that collection of the tax should be enforced, the assessor shall assess the property at its value on the lien date of the year for which cancellation was made.

The property shall be entered on the roll prepared or being prepared in the assessment year when the cancellation is made. The entry shall be followed with "Taxes

canceled for year 19.... and collection ordered enforced by Board of Supervisors ..... 19....."

The amount charged against the property on the roll on which it is entered shall be the corrected tax for the year for which the cancellation was made. No penalties or other charges shall be charged on this assessment except those which may attach to other property assessed for the year in which this property is placed on the roll. If the tax rate for the year for which the cancellation is made has not been held invalid by a court, the tax rate to be applied shall be the rate fixed for such year. If the tax rate or any portion of it has been held invalid by a final judgment of the court, the corrected tax shall be determined by the auditor by applying all such judgments in the manner prescribed by the Controller.

Any revenue received on this assessment for the year for which cancellation is made shall be treated like revenue received from delinquent taxes for such year.

The collection of the tax shall be enforced in the same manner as the tax on other property on the roll on which it is entered.

5. Pertinent Provisions of the California Constitution and Statutes Relating to Exemption From Local Taxation of Personal Property of Banks and Taxation of Bank Income at a Higher Rate Because of Such Exemption.

ARTICLE XIII, SECTION 16, CALIFORNIA CONSTITUTION.

1. (a) Banks, including national banking associations, located within the limits of this State, shall annually pay to the State a tax according to or measured by their net income, which shall be in lieu of all other taxes and licenses, state, county and municipal, upon such banks, or the shares thereof, except taxes upon their real property, at the rate to be provided by law.

(b) The Legislature may provide by law for any other form of taxation now or hereafter permitted by the Congress of the United States respecting national banking associations; provided, that such form of taxation shall apply to all banks located within the limits of this State.

SECTON 4a, CALIFORNIA BANK AND CORPORATION FRANCHISE TAX ACT (California Statutes 1933, page 871, as amended).

Section 4a. Rate of tax on national banking associations and other banks and financial corporations. The rate of tax on National banking associations and other banks and financial corporations mentioned in Sections 1, 2, and 4 of this act, shall be a percentage equal to the percentage of the total amount of net income, allocable to this State, of every corporation taxable under subdivision (3) of Section 4 of this act, other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this State as franchise taxes according to or measured by such net income, and required to be paid to this State or its political subdivisions by such corporations as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 8 percentum. The percentage of the net income of every corporation taxable under subdivision (3) of Section 4 of this act, other than public utilties as defined in the Public Utilities Act, required to be paid to this State or its political subdivisions in personal property taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes, less 4 percentum thereof, bears to the total amount of net income of such

corporation, allocable to California, increased by the amount of such personal property taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes required to be paid by such corporation to this State or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

The commissioner, after public hearing and opportunity given to examine the data on which his determination is based, shall determine not later than the thirty-first day of December of each year the average percentage of net income above specified, and, within thirty days after his determination, shall mail notice of his determination and the amount of tax payable on the basis of such determination to all banks and financial corporations affected thereby, which are then classified on his records as banks or financial corporations, but such determination shall not be considered a deficiency assessment within the meaning of Section 25 hereof. The data gathered by the commissioner in determining the rate, referred to herein, shall be made available to the taxpayers affected by such determination at the time and in the manner prescribed by regulations adopted by the commissioner.

If it be judicially determined that the rate of tax on any bank or corporation is higher than is authorized by law such bank or corporation shall be relieved of liability for any tax imposed by this act only to the extent of the excess beyond that legally authorized.